



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

## DEPARTMENT OF ENERGY RESOURCES

### MEMORANDUM

TO: Service List in Long Term Contracts for Renewable Energy, D.P.U. 08-88  
Via Email and First Class Mail

FROM: Laura Bickel, Hearing Officer, Department of Public Utilities  
Rob Sydney, General Counsel, Department of Energy Resources

DATE: October 29, 2008

RE: Agenda for Stakeholder Meeting on November 5, 2008

CC: Mary Cottrell, Secretary

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### I. INTRODUCTION

The Department of Public Utilities ("DPU") and Department of Energy Resources ("DOER") will jointly hold a stakeholder meeting on **Wednesday, November 5, 2008, from 9:30 a.m. to 12:30 p.m.** to assist the agencies in the development of rules and regulations necessary to implement the provisions of the Green Communities Act relating to long-term contracts for renewable energy. St. 2008, c. 169, § 83 ("Section 83"). The stakeholder meeting will be held at the **Leverett Saltonstall Building at 100 Cambridge Street, 2<sup>nd</sup> Floor, Conference Rooms B & C, Boston, Massachusetts.**<sup>1</sup> Any person interested in commenting on the issues may participate at the stakeholder meeting or submit written comments to DPU and DOER no later than the close of business (5:00 p.m.) on **November 5, 2008.**<sup>2</sup> Reply

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<sup>1</sup> Attendees must present government-issued identification to building security staff for admittance but need not RSVP.

<sup>2</sup> One original of all documents should be filed with Mary L. Cottrell, Secretary, Department of Public Utilities, One South Station, 2nd Floor, Boston, Massachusetts 02110 and one (1) copy to Rob Sydney, General Counsel, Department of Energy Resources at 100 Cambridge Street, Suite 1020, Boston, Massachusetts 02114. Written comments must include complete contact information (e.g., name, title, company name, (continued...))

comments, if any, must be submitted no later than the close of business on **November 19, 2008**. This memorandum addresses the format, agenda, and topics for discussion at the stakeholder meeting. For further information regarding this memorandum, please contact Laura C. Bickel, Hearing Officer, Department of Public Utilities, at (617) 305-3588 or Rob Sydney, Department of Energy Resources, at (617) 626-7333.

## II. FORMAT

The stakeholder meeting will provide an informal forum in which to discuss the topics set forth below. The DPU and DOER will present these topics and allow interested persons to provide comments on the topics and other related issues. The DPU and DOER request that each entity, association, or interest group designate a primary individual to participate in the discussion of each topic. There will be no stenographic record made of this stakeholder meeting.

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<sup>2</sup>(...continued)

business address, telephone, fax, and email address) for each participant. In addition, all documents filed in this docket should be submitted to the DPU in electronic format: (1) by e-mail attachment to [dpufiling@state.ma.us](mailto:dpufiling@state.ma.us) and the hearing officer [[Laura.Bickel@state.ma.us](mailto:Laura.Bickel@state.ma.us)]; or (2) on a 3.5" disk or CD-ROM. The text of the e-mail, disk label, or CD-ROM must specify: (1) the docket number of the proceeding (D.P.U. 08-88); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. Text responses should be created in either Corel WordPerfect, Microsoft Word, or Adobe Acrobat (version 7 or higher). Data or spreadsheet responses should be compatible with Microsoft Excel (version 2000). DPU strongly encourages filers to avoid submitting scanned files but will accept them for posting when an alternative version does not exist in electronic format. Documents will be available for public inspection at the DPU's offices during normal business hours. Also, copies of documents that are filed electronically will be available on the DPU's website: <http://www.mass.gov/dpu>.

### III. AGENDA

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|------------|--|
| 9:30 A.M.  | Introductions and Ground Rules   |
| 9:40 A.M.  | Contracting Process (DOER)   |
| 10:40 A.M. | DPU Review and Approval of Timetable and Methods for Solicitation and Execution of Contracts |
| 11:00 A.M. | Break (10 minutes)   |
| 11:10 A.M. | Cost-Effectiveness and Additional Criteria   |
| 11:50 P.M. | Remuneration to Distribution Companies   |
| 12:30 P.M. | Adjourn  |

### IV. SUMMARY OF SECTION 83 REQUIREMENTS

The following is a summary of the requirements of Section 83:

- For the five-year period commencing July 1, 2009, each distribution company is required to conduct at least two separate solicitations for long-term contract proposals from renewable energy developers. Distribution companies may voluntarily conduct additional solicitations during the five-year period.
- Provided reasonable proposals have been received, distribution companies are required to enter into cost-effective long-term contracts “to facilitate the financing of renewable energy generation within the jurisdictional boundaries of the commonwealth, including state waters, or in adjacent federal waters.”
- In developing the provisions of proposed long term contracts, distribution companies must consider multiple contracting methods, including long-term contracts for renewable energy certificates (“RECs”), for energy, and for a combination of both RECs and energy.
- The renewable energy generating source to be used by a developer must meet the following criteria: (1) have a commercial operation date, as verified by DOER, on or after January 1, 2008; and (2) be qualified by DOER as eligible to participate in the renewable portfolio standard (“RPS”), under Chapter 25A, section 11F, and to sell RECs.

- A distribution company's obligation to enter into long-term contracts is limited to three percent of total energy consumption in its service territory.
- A distribution company may decline to consider a long-term contract if it determines that the terms and conditions of a contract proposal would place "an unreasonable burden" on its balance sheet.
- "[A]n electric distribution company may elect to use any energy purchased under such contracts for resale to its customers, and may elect to retain [RECs] for the purpose of meeting the applicable annual RPS requirements. . . . If the energy and RECs are not so used, such companies shall sell such purchased energy into the wholesale spot market and shall sell such purchased RECs through a competitive bid process."
- "If the distribution company sells the purchased energy into the wholesale spot market and auctions the RECs . . . , the distribution company shall net the cost of payments made to projects under the long-term contracts against the proceeds obtained from the sale of energy and RECs, and the difference shall be credited or charged to all distribution customers through a uniform fully reconciling annual factor in distribution rates, subject to review and approval of [DPU]. The reconciliation process shall be designed so that the distribution company recovers all costs incurred under such contracts."
- All proposed contracts are subject to the review and approval of DPU and all such contracts must be filed with and approved by DPU before they become effective. As part of its approval process, DPU must consider the Attorney General's recommendations, which must be submitted to DPU within 45 days following the filing of such contracts.

## V. TOPICS FOR DISCUSSION

### A. Contracting Process (DOER)

1. What process could be used for solicitation and execution of contracts?
2. What contracting methods would be preferable? What combination of products is preferable (REC-only, energy-only, both)? What time frame?
3. What are the preferred pricing options (fixed, escalating, etc.)?
4. What additional issues should be considered that are not on the agenda?

B. DPU Review and Approval of Timetable and Methods for Solicitation and Execution of Contracts

Section 83 provides that the “timetable and method for solicitation and execution of such contracts shall be proposed by the distribution company in consultation with [DOER] and shall be subject to review and approval by [DPU].” Section 83 further provides that distribution companies “shall select a reasonable method of soliciting proposals from renewable energy developers, which may include public solicitations, individual negotiations or other methods” and that the distribution company “shall consult with [DOER] regarding its choice of contracting methods and solicitation methods.”

1. What criteria should DPU use to review and approve a distribution company’s proposed timetable and method for solicitation, and execution of contracts?
2. Should DPU review and approve the timetable and method for solicitation and execution of the contract prior to a distribution company’s solicitation, or, alternatively, at the time that a distribution company submits its executed contracts for DPU review and approval?

C. Cost-Effectiveness and Additional Criteria

Section 83 requires DPU to determine that any long-term contracts are cost-effective. Specifically, Section 83 requires that “the renewable energy generating resource. . . [must] be cost-effective to Massachusetts electric ratepayers over the term of the contract.” Section 83 states that DPU “shall approve a contract only upon a finding that it is a cost-effective mechanism for procuring renewable energy on a long term basis.” Section 83 requires DPU to determine that each resource will: “(1) provide enhanced electricity reliability within the Commonwealth; (2) contribute to moderating system peak load requirements; (3) be cost effective to Massachusetts electric ratepayers over the term of the contract; and (4) where feasible, creates additional employment in the Commonwealth.

1. What criteria should DPU use in determining whether a contract is cost-effective to Massachusetts electric ratepayers over the term of the contract? For example, should DPU only consider those benefits associated with the use of a resource’s electricity and REC output? Alternately, should DPU also consider other factors, such as the extent to which a contract facilitates the financing of renewable energy generation within the Commonwealth?
2. Is there a difference between the criteria DPU should use in determining whether a contract is (1) cost-effective over its term, and (2) a

cost-effective mechanism for procuring renewable energy on a long-term basis? If so, what criteria should DPU use in determining whether a contract is a cost-effective mechanism for procuring renewable energy on a long-term basis?

3. What should DPU use in determining whether a resource: (1) provides enhanced electricity reliability within the Commonwealth; (2) contributes to moderating system peak load requirements; and (3) where feasible, creates additional employment in the Commonwealth?
4. What would qualify as an unreasonable burden on a distribution company's sheet and how would a distribution company demonstrate this burden?

D. Remuneration to Distribution Companies

Section 83 requires that the regulations "provide for an annual remuneration for the contracting distribution company equal to [four] percent of the annual payments under the contract to compensate the company for accepting the financial obligation of the long-term contract, such provision to be acted upon by [DPU] at the time of contract approval."

1. Would remuneration be an automatic result of approval of such contracts, or are further findings by DPU required?
2. How should this remuneration be accounted for in a cost-effectiveness calculations?